



Recons. /#17
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UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
ROGELJ et al.)
Serial Number: 09/424,181)
Filed: November 10, 1999)
For: INHIBITION OF CELL SURFACE PROTEIN)
DISULFIDE ISOMERASE)
Examiner: Lukton, D.
Art Unit: 1653
Docket No.: UNME-0054-1

Director of the U.S. Patent and Trademark Office
Washington, D.C. 20231

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REQUEST FOR RECONSIDERATION

Sir:

This is in response to the Office Action mailed on February 25, 2002, the period of response to which is set to expire on May 25, 2002. Reconsideration of the present application is respectfully requested.

The Examiner is thanked for indicating that claims 2 through 8 and 11 are allowable. Since there is no rejection pending against claims 2 through 8 and 11, Applicants respectfully request that the Examiner allow such claims.

Applicants note, with thanks, the Examiner's willingness to examine claims 1 through 8 and 11 in accordance with Applicants' response to the restriction and election of species requirement.

The Office Action indicates that the specification is objected to for failing to recite the appropriate SEQ ID NOs. corresponding with the provided Sequence Listing. However, the amendments to the specification suggested by the Examiner have been made previously in the Preliminary Amendment filed with the Sequence Listing on September 12, 2001, in response to the Notice to Comply.

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Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,798,249 to Braxton. This rejection is respectfully traversed.

According to 35 U.S.C. § 102(b), “[a] person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States” U.S. Patent No. 5,798,249 to Braxton was available as a 102(b) reference as of August 25, 1998, the issue date of the patent. Applicants’ present application is a National Stage Application of, and has a valid priority claim to, PCT Application No. PCT/US98/09795, filed May 14, 1998, which claims priority to U.S. Provisional Patent Application No. 60/046,487, filed May 14, 1997. Therefore, the effective filing date of the present application is May 14, 1997. In fact, both the provisional application and the PCT application identified above were filed before Braxton issued as a patent and became available as a reference. Thus, Braxton is not a valid 102(b) reference against the present application; and therefore, Applicants respectfully request reconsideration and withdrawal of the rejection.

Claim 1 is rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,309,644 to Chandrashekhar. This rejection is respectfully traversed.

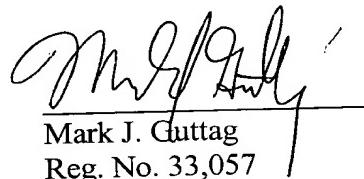
According to 35 U.S.C. § 102(a), “[a] person shall be entitled to a patent unless – (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent” U.S. Patent No. 6,309,644 to Chandreshkar was available as a 102(a) reference as of October 30, 2001, the issue date of the patent. At a minimum, Applicants have a constructive reduction to practice dating back to 1997. Thus, Chadreshkar is not a valid 102(a) reference against the present application; and therefore, Applicants respectfully request reconsideration and withdrawal of the rejection.

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If the Examiner has any questions or concerns regarding the present response, the Examiner is invited to contact Mark J. Guttag at 703-591-2664.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance, and favorable action is respectfully solicited.

Respectfully submitted,



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March 13, 2002